Compensation
Advisory
Committee

Report and Recommendations 1990

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Report and Recommendations
of the
1990 Compensation Advisory Committee Regarding Remuneration for Provincial Court Judges

I. INTRODUCTION

The 1990 Compensation Advisory Committee was appointed pursuant to Section 7.1 of the *Provincial Court Act* to inquire into, report and make recommendations on remuneration, allowances and benefits for Provincial Court Judges.

The Committee Members are:

- James Heaney, *Chairman;*
- Janet Baird; and
- Donald Saunders.

Executive Secretary to the Committee is:

- Ian Batey.

Committee Counsel is:

- Robert Gourlay.

II. THE PROCESS

The Committee obtained information and submissions from the following sources:

1. Tours of provincial courthouses, conducted through the auspices of Chief Provincial Court Judge William J. Diebolt; and
2. Hearings conducted by the Committee on December 12, 13 and 14, 1990.

The following persons made submissions to the Committee:

1. Chief Judge William J. Diebolt, Provincial Court of B.C.;
2. Judge Alan Filmer, for the Provincial Court Judges Association;
3. Terry E. Laliberte, for the Canadian Bar Association, B.C. Branch;
4. Robert Guile, Q.C. and Peter Leask, Q.C., for the Law Society of B.C.;
5. Maryla Waters and Dr. Cheryl Holmes, for the Judicial Council of B.C.; and
6. Gary Moser, for Government Personnel Services Division, Province of B.C.

This is the third Committee appointed to inquire into, report and make recommendations on compensation for Provincial Court Judges.

The Committee is constituted every second year and previous committees were appointed in 1986 and 1988. None of the members of the present Committee were members of either of the two previous committees.

Although we were required to develop an understanding of the Provincial Court Judicial system, in a short time, we believe that an independent review by lay people gives the necessary non-political input to the important issue of fair and reasonable compensation for the Provincial Court judiciary. In our opinion, the process whereby a committee of lay persons considers the issue of remuneration for Provincial Court Judges and reports to the Attorney General, is worthwhile and beneficial.

Information regarding the relative incomes of lawyers would have assisted us in considering an appropriate compensation package for Provincial Court Judges. Unfortunately, this information was not available to us.

III. PRINCIPLES TO BE CONSIDERED

The Committee recognizes the need to support the principle of judicial independence from the Executive Branch of government. In particular, regarding the matter of compensation for Provincial Court Judges, the principle of judicial independence requires judges be compensated adequately so that they are afforded a reasonable degree of financial comfort and security. Judges will thereby be enabled to concentrate exclusively on their essential public function.

The factors that we considered in reaching our decision regarding a proper level of compensation include the following:

1. Judges' compensation must be adequate to:
   (a) reflect the public importance and responsibility of their role;
   (b) provide a reasonable degree of financial security to judges;
   (c) allow judges to bring their complete attention to bear upon their profession; and
   (d) attract the best applicants for the position.
2. Judges' remuneration should not be compared to that of public servants as the judges' role and responsibility differs markedly from that of a public servant.
3. The court system in B.C. remains to some degree hierarchical in that decisions of the Provincial Court can be appealed to the Supreme Court and to the Court of Appeal of British Columbia.
4. Judges receive other benefits in addition to salary; for example, a fully indexed pension, which is not generally available to the group from which judges are chosen.

IV. OTHER FACTORS

The Committee bases its recommendations on the following considerations.

Present Operation of the Court

From our observations of the workings of the Provincial Court, we are of the opinion that the Court is operating adequately to serve the needs of the public. We appreciate the difficulties involved in the effective operation of a public institution which depends upon the input and availability of persons other than its judges, namely Crown Counsel, defence counsel, lay and professional witnesses. We applaud the innovative efforts of those involved, including judges, to coordinate and streamline the Provincial Court's judicial system.

We believe that the Provincial Court system and efficiency improvements are under the capable administration of the Chief Provincial Court Judge, with the assistance of other judges and other non-judicial individuals. Moreover, our view is that the efficiency of the court system is a matter of judicial administration and should not be a factor in the determination of proper compensation for Provincial Court Judges.

Therefore, we have not based our recommendation for judges' compensation on such factors as hours worked by judges or any other matters arising from the administration of the court.

Attracting and Retaining Qualified Applicants

We believe the judicial salary and benefit package should serve to make appointment to the bench sufficiently attractive to qualified lawyers and to enhance the morale of those who have accepted appointment.

We believe that a judge and his or her family are entitled to a standard of living commensurate with their position in society. Judges must be seen by society to be financially secure enough to devote their time exclusively to judicial duties and not engage in other business or occupational activities.

We found no evidence that qualified lawyers are not applying for positions as Provincial Court Judges.

V. COMPENSATION ISSUES CONSIDERED

Benefits and Allowances

After reviewing benefits for Provincial Court Judges, we are satisfied that no change in the current practice is required.

Pensions

We were informed that there is a consensus of Government, the Provincial Court Judges Association, and the Chief Judge that the issues of pensions, being a very complex one, should be left to meetings between Government and the Chief Judge's Office in consultation with the Provincial Court Judges Association.

However, we think it proper, because of our statutory mandate pursuant to Section 71 of the *Provincial Court Act*, to consider all matters relating to judicial compensation and we have reviewed the judicial benefit package as a whole, including pensions.

Salaries

The Committee heard submissions that the roles and functions of the two levels of the trial court (Provincial and Supreme) are so similar that no disparity is justified.

However, we were unable to obtain sufficient information regarding the respective roles and functions of the two courts to allow us to accept the concept of parity. In particular, the Committee did not receive sufficient information regarding the types of cases, hours of work,

level of expertise required, or complexity of cases heard by the Supreme Court, to allow us to properly evaluate the issue of parity between the two courts.

Most of the presenters to our Committee made reference to the perceived unfairness of the difference or "gap" between salaries paid Supreme and Provincial Court Judges. While we understand there may be reasons for this gap, we have difficulty with the present quantum of $42,400, compared with $2,000 in 1974 (comparison schedule attached).

We do acknowledge the significant gap which does exist and we support the principle that there should be a narrowing of this gap and that a comparison with remuneration levels for Supreme Court Judges is one important factor to be considered.

We also reviewed remuneration comparisons with Provincial Court Judges in other provinces of Canada. Again, we considered these comparisons to be useful in coming to a reasonable figure to recommend as salary for British Columbia's Provincial Court Judges.

Our findings as to 1990 salaries of Provincial Court Judges in provinces with 100 or more judges were:

	Puisne	Associate Chief	Chief
British Columbia	$ 98,000	$102,000	$104,500
Alberta	104,560	111,096	117,636
Ontario	110,460	120,930	126,240
Quebec	107,499	121,473	125,773

It has been some six years since the differential for Chief and Associate Chief Judges was adjusted in British Columbia.

Impact of Inflation

1974 was the year before the enactment of legislation establishing the requirement for a professionally trained judiciary, and incidentally the year with the least gap between the County Court Justices and Provincial Court Judges' salaries.

Using 1974 as our base year, and applying the following indices, the 1990 base salary for Puisne Provincial Court Judges, in British Columbia, would have been:

1. Consumer Price Index (Canada) — $104,825.
2. Consumer Price Index (Vancouver) — $100,882.
3. Industrial Aggregate Index (Vancouver) — $101,445.
4. Weekly Earnings in Manufacturing (Canada) — $112,374.

VI. CONCLUSION AND RECOMMENDATIONS

We understand that difficult economic times may be ahead of us. However, we believe that it is extremely important to our society that the rule of law be upheld. It is important that our judiciary receive fair and reasonable compensation.

After due deliberation and consideration of all the foregoing material and applying an incremental increase for 1991, we recommend that a salary of $111,000 per annum be paid to our Provincial Court Judges commending January 1, 1991, and $116,000 commencing January 1, 1992.

Our review and examination of differentials for Chief and Associate Chief Judges leads us to recommend that they be increased to $10,000 and $5,000 respectively.

Accordingly, the salary of Chief Judge will be $121,000 for 1991, and $126,000 for 1992. The salary of the Associate Chief Judge will be $116,000 for 1991, and $121,000 for 1992.

Respectfully submitted

J.C. Heaney
(Chairman)

J.M. Baird
(Member)

D.A. Saunders
(Member)

APPENDIX I

SALARY COMPENSATION CHART

Provincial Court Judges (B.C.) and Supreme/County Court Justices (Federal)

Year	Supreme/County Court	Provincial Court	Differences
1990	$140,400 (3)	$98,000	$42,400
1989	128,800	94,000	34,800
1988	122,700	87,826	34,874
1987	116,300	83,644	32,656 (2)
1986	103,699	66,963	36,736
		73,659 (10%)	(30,040) (1)
1985	86,900	66,963	19,937
		73,659 (10%)	(13,241) (1)
1984	82,600	66,300	16,300
1983	78,700	65,000	13,700
1982	74,300	65,000	9,300
1981	69,500	65,000	4,500
1980	65,000	56,000	9,000
1979	58,500	50,000	8,500
1978	50,000	41,762	8,238
1977	48,000	39,150	8,850
1976	46,000	37,400	8,600
1975	46,000	35,000	11,000
1974	37,000	35,000	2,000

NOTES: Salaries quoted are the maximum paid within the calendar year.

(1) Effective October 1985 until the end of 1987, Judges received a Judicial Benefit Plan (J.B.P.) valued at 10% of gross salary.

(2) In 1988, the J.B.P. was eliminated and the base salary was increased by 10%.

(3) In 1990, the B.C. County Court merged with the B.C. Supreme Court and the previous differential of $5,000 was eliminated. All County Court Justices became Supreme Court Justices.